

Nos. 2018-1551, 2018-1552

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

AMGEN INC., AMGEN MANUFACTURING, LIMITED,

Plaintiffs-Appellants,

v.

SANDOZ INC., SANDOZ INTERNATIONAL GMBH, SANDOZ GMBH,

Defendants-Appellees.

AMGEN INC., AMGEN MANUFACTURING, LIMITED,

Plaintiffs-Appellants,

v.

SANDOZ INC., SANDOZ INTERNATIONAL GMBH,
SANDOZ GMBH, LEK PHARMACEUTICALS, D.D.

Defendants-Appellees.

2018-1551, 2018-1552

Appeals from the United States District Court for the Northern District of California in Case Nos. 3:14-cv-04741, 3:16-cv-02581, Judge Richard Seeborg

**AMGEN'S RESPONSE TO SANDOZ'S MOTION
FOR EXTENSION OF TIME TO FILE ANSWERING BRIEF**

This appeal was docketed on February 12, 2018, and Amgen filed its opening blue brief on April 13, 2018. Sandoz's responsive red brief is thus due on May 23, 2018. Sandoz now requests an extension to June 22 to file its responsive red brief. Amgen respectfully opposes Sandoz's motion for a 30-day extension of time for its response brief to be filed on June 22. Amgen does agree to a 23-day extension of time for Sandoz's response brief to be filed on June 15, should the Court grant any extension. (Sandoz's motion asserts that Amgen agrees to a 21-day extension to June 13, which is incorrect. Amgen agreed to an extension to June 15. Sandoz's misunderstanding appears to be based on a typographical error in Amgen counsel's email as to the number of days for the agreed-upon extension.)

Amgen is willing to accommodate reasonable requests for extensions. Sandoz's present 30-day request and unwillingness to agree to a 23-day extension, however, prejudices Amgen. If granted, Sandoz's extension would mean that Amgen's reply brief would be due on July 6 which is a week that Amgen is closed for the entire week. In addition, this appeal involves Sandoz's attempt to obtain FDA approval for a biosimilar product that is not on the market; the timely resolution of this appeal is meaningful because it impacts Amgen's ability to obtain relief as to its patent infringement claims before any FDA approval.

Sandoz counsel asserted that a 30-day extension is necessary to accommodate its work obligations in May, as well as vacations in June. Amgen

respectfully submits that the due date for this brief has been known to Sandoz's counsel for some time. And the only obligations that Sandoz identifies during the disputed time period between June 15 to June 22 are vacations.

In addition, Sandoz counsel stated that it was not seeking the full 60-day extension that the Federal Circuit always grants, and only a 30-day extension. Amgen appreciates the work obligations of Sandoz counsel, but it cannot be the case that counsel can automatically obtain an up-to-60-day extension of time in every case, particularly here where Amgen has agreed to a 23-day extension and a longer extension would prejudice Amgen.

For the foregoing reasons, Amgen respectfully submits that Sandoz's motion for a 30-day extension should be denied. Amgen does agree to a 23-day extension.

Dated: May 11, 2018

Respectfully submitted,

/s/ Nicholas Groombridge
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CERTIFICATE OF COMPLIANCE

This response complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A). The response contains 391 words, excluding parts exempted by Fed. R. App. P. 32(f) and Federal Circuit Rule 32(b). The word count includes the words counted by the Microsoft Word 2016 function.

This response also complies with the typeface and type style requirements of Fed. R. App. P. 27(d)(1)(E). The response has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point font of Times New Roman.

Dated: May 11, 2018

/s/ Nicholas Groombridge
Nicholas Groombridge

CERTIFICATE OF INTEREST

The full name of every party represented by me is:

AMGEN INC. and AMGEN MANUFACTURING, LIMITED

The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

AMGEN INC. and AMGEN MANUFACTURING, LIMITED

All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party represented by me are:

AMGEN INC.

The names of all law firms and the partners and associates that appeared for the party now represented by me in the trial court or are expected to appear in this Court (and who have not or will not enter an appearance in this case) are

SIDLEY AUSTIN LLP: Vernon M. Winters, Sue Wang, and Alexander David Baxter who is no longer with the firm

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP: Michael T. Wu and Ana J. Friedman who are each no longer with the firm

The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. *See* Fed. Cir. R. 47.4(a)(5) and 47.5(b).

None

Date: May 11, 2018

/s/ Nicholas Groombridge
Nicholas Groombridge

CERTIFICATE OF SERVICE

I hereby certify that on this 11th of May, 2018, I caused the forgoing
AMGEN'S RESPONSE TO SANDOZ'S MOTION FOR EXTENSION OF TIME
TO FILE ANSWERING BRIEF to be filed with the Clerk of the Court for the
United States Court of Appeals for the Federal Circuit using the CM/ECF system.

I further certify that all participants in the case are registered CM/ECF users
and that service will be accomplished by the appellate CM/ECF system.

/s/ Nicholas Groombridge
Nicholas Groombridge